



Defence for Children International – Palestine Section

**International Covenant on Civil and Political Rights (1966)
(ICCPR)**

**Questions for consideration by the UN Human Rights Committee
for inclusion in the draft list of issues**

Israel

Submitted: 30 May 2012

This report is submitted on behalf of Defence for Children International–Palestine Section (DCI-Palestine), a national section of the international non-governmental child rights organisation and movement, Defence for Children International, established in 1979, with consultative status with ECOSOC.

Children prosecuted in military courts

Overview

- 1.1 Since the Committee last reviewed the State party, approximately 500–700 children, some as young as 12 years, continue to be prosecuted in Israeli military courts each year. Reports of torture and other cruel, inhuman or degrading treatment or punishment (torture and ill-treatment) are received on a weekly basis. The majority of these reports relate to the first 48 hours of detention, during the arrest, transfer and interrogation stages.
- 1.2 DCI-Palestine maintains the view that no child should be prosecuted in military courts which lack comprehensive fair trial and juvenile justice standards. However, as a minimum safeguard, the following recommendations are intended to provide a series of simple and practical measures to assist in the protection of children:
 - (i) All children must have access to a lawyer of their choice prior to interrogation, and preferably, throughout the interrogation process.¹
 - (ii) All children must be entitled to have a parent present at all times during their interrogation.²
 - (iii) In every case the interrogation of children must be audio-visually recorded, and a copy of the recording must be given to the child's legal representative at the conclusion of the interrogation.

Recent developments

- 1.3 In September 2011, the Israeli military commander in the West Bank issued Military Order 1676 amending the law relating to minors.³ These amendments have had little substantive effect:
 - (i) Raising the age of majority – The military juvenile court now has jurisdiction over children aged 16 and 17 years, but the amendment does not apply to the sentencing provisions. Accordingly, children aged 16 and 17 can still be sentenced as adults.
 - (ii) Notifying parents of arrest – A police officer must now notify parents as soon as possible after the child is brought to a police station. This amendment only applies to the police, whereas it is the army that conducts arrests in the West Bank and has custody of the child for many hours before being handed over to the police. The amendment does not permit parents to be present during the interrogation.

- (iii) Notifying a lawyer of arrest – Police must now notify a child that he/she has the right to consult with a lawyer, but there is no stipulation as to when this consultation must occur. In practice, children do not meet with a lawyer until after the conclusion of their interrogation and are still not being effectively informed of their right to silence.

Recent reports

- DCI-Palestine: Bound, Blindfolded and Convicted: Children held in military detention (April 2012);⁴ and
- B'Tselem: No Minor Matter: Violation of the Rights of Palestinian Minors Arrested by Israel on Suspicion of Stone Throwing (July 2011).⁵

Endnotes

¹ These recommendations have been endorsed by the UN Committee Against Torture, Concluding Observations, Israel, May 2009, CAT/C/ISR/CO/4 – paragraphs 16 and 27; and the UN Human Rights Committee, Concluding Observations, July 2010, CCPR/C/ISR/CO/3 – paragraph 22.

² Israeli children are generally entitled to have a parent present during interrogation. See: Youth (Trial, Punishment and Modes of Treatment) Law (1971) – Section 9H. A parent is allowed to be present at all times in circumstances where the child has not been formally arrested, but may not intervene in the interrogation process. An exception to this rule is permitted upon written authorisation of an authorised officer, and in cases in which the well-being of the child requires the parent not to be present.

³ Military Order 1676 - http://www.dci-palestine.org/sites/default/files/military_order_1676.pdf

⁴ DCI-Palestine – Available at: http://www.dci-palestine.org/sites/default/files/report_0.pdf

⁵ B'Tselem – Available at: http://www.btselem.org/download/201107_no_minor_matter_eng.pdf